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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/390,625	09/07/1999	BROCK WALKER	PM-223529	7261

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EXAMINER

BROWN, MICHAEL A

ART UNIT PAPER NUMBER

3764

DATE MAILED: 03/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/390,625	Applicant(s) WALKER, BROCK	
	Examiner Michael Brown	Art Unit 3764	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 5,10-13,27,32 and 33 is/are allowed.
- 6) ☒ Claim(s) 1-4,6,7,14-17,19-26 and 28-31 is/are rejected.
- 7) ☒ Claim(s) 8,9 and 18 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, 6-7, 15-17, 19-26 are rejected under 35 U.S.C. 102(b) as being anticipated by Perkins.

Perkins discloses in figures 1-5 a portable sacral support comprising a main body 10, having a bottom (the lower portion of 10 in fig. 2), a central portion (the area covered by 15), adjacent side portions (the two vertical extending portions of 20), a rear surface (the rear surface is the surface that includes the ramps and the recesses), a plurality of ramps 15 and a plurality or recess 12, that provide compressive supports, that are focused on the sacrum and less compressive (at 12) in release area located adjacent each side of the central portion, the body is made of a molded plastic (col. 1, lines 40-43) and is an integral one piece (col. 2, lines 2-4), a spacer 26 that provides an extension, the compressive support (the device is resilient) of the central portion is variable (it can be made of various densities of foam), the end portion includes at least one thickened portion 26, the end portion extends beyond the central portion (the central portion is interpreted as being 15, the ends where 26 is located extends beyond the portions 15), a flex gate 19a, the central portion includes a shaped and raised area (the upper portion of 10 shown in fig. 3 is raised from the slightly curved portion) that

Art Unit: 3764

includes a protruding lower portion (the lower portion of the front surface protrudes outwardly from the tapered upper portion), the main body includes a curved front surface (fig. 3), and the open cell foam (col. 2, lines 20-24), provides dimples spaced across a portion of the front surface. The open cells provide through holes that extend through a portion of the main. The foam material is polyurethane (col. 2, lines 20-23) that is a self-skinning foam.

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 28 and 30-31 are rejected under 35 U.S.C. 102(b) as being anticipated by Brooks.

Brooks discloses in figure 3 a portable sacral support comprising a central portion 30 including a recess (the opening in the pouch 30) and an insert 16 that has different density valves (col. 6, lines 1-30).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perkins in view of Goldstein.

Perkins discloses in figures 1-5 a portal sacral support, substantially as claimed. However, Perkins doesn't disclose a tether extending away from at least a portion of the bottom. Goldstein teaches in figures 1-4 a sacral support comprising a tether (the tether 31) extending away from at least a portion of the bottom of the support. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the tether as taught by Goldstein could be incorporated into the sacral support disclosed by Perkins in order to use the tether to attach the sacral support to a chair or the seat of an automobile.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Brooks.

Brooks discloses in figure 3 a portable sacral support, substantially as claimed. However, Brooks doesn't disclose what force the support provides. It would have been obvious to one having ordinary skill in the art at the time that the invention was made that the insert could be used to provide certain forces that could include 2 psi to 4 psi. because the density of the insert would determine what psi it provides.

Allowable Subject Matter

Claims 8-9 and 18 and objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claims 5, 10-13, 27 and 32-33 are allowed.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Serola and Summers, each discloses a portable sacral support.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Brown whose telephone number is 571-272-4972. The examiner can normally be reached on 5:30 am-4:00 pm Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gergory Huson can be reached on 571-272-4887. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

M. Brown
March 9, 2006

A handwritten signature in black ink, appearing to read "Michael A. Brown", with a stylized, flowing script.

MICHAEL A. BROWN
PRIMARY EXAMINER